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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/578,376      | 05/05/2006  | Yang Peng            | CN030054US1         | 6602             |

24737 7590 09/15/2010  
PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
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| EXAMINER |
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TOPGYAL, GELEK W

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2621

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| MAIL DATE | DELIVERY MODE |
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09/15/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/578,376 | <b>Applicant(s)</b><br>PENG ET AL. |  |
|                              | <b>Examiner</b><br>GELEK TOPGYAL     | <b>Art Unit</b><br>2621            |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. It should be noted that upon further consideration, a new ground(s) of rejection is made in view of new interpretation of the applied art of Lamkin et al. and Lewis et al..

### ***Remarks***

2. Claims 8-16 and 19-20 are statutory under 35 USC 101 as said claims are to a statutory class of invention (optical disc player). Said claims 8-16 and 19-20 are to an optical disc player, which is interpreted in light of the specification is not capable to be met by software/computer listings per se.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Claims that recite nothing but the physical characteristics of a form or energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in Sec. 101.

... a signal does not fall within one of four statutory classes of 101.

... signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of Sec. 101.

4. **Claims 1-7 and 17-18** are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decisions indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claims recite a series of steps or acts to be performed, the claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, a method of playing content having a plurality of distinct branches comprising detecting, creating, and subsequent playing steps is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine. It is noted that while the preamble discloses a "playback device" (line 2) said language has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Furthermore, it is noted that the respective claim language fails to disclose that said respective steps are performed by said "playback device."

***Claim Rejections - 35 USC § 102***

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1-2, 4-5, 8-11 and 13-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Lamkin et al. (US 7,379,661).

**Regarding claim 1**, Lamkin et al. teaches a method for playing content having a plurality of distinct branches playable on a playback device, each one of the plurality of distinct branches leading to a diverged end of the content from other ones of the plurality of distinct branches (col. 21, lines 21+ and TABLE 1 teaches of the standard DVD that has multiple “angles (1-9)” that can be stored, the multiple angles are distinct branches of the content unique from one another. It is noted that the content has a plurality of different paths across the “angles (1-9)” that can be reproduced by a playback device. It is noted that when the content is played back, when the multi “angles (1-9)” portion is reached, it is implicitly taught that at a first angle (1) sequence converges to a diverged end as compared to a second angle(2), third angle(3), etc), the method comprising acts of:

detecting a branch indication while playing the content, the branch indication identifying a branch of the plurality of distinct branches of the content selected for playback (col. 21, lines 25-29 teaches that in the process of having to create a

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bookmark, the system "records the necessary information to return to the same point in the video playback of the video (1502) by recording the title number, time position, chapter, **angle**.." In order for the system to fetch the "necessary information", the system implicitly has to **detect** the particular angle (i.e. branch indication) for which a bookmark is to be created); and

creating a bookmark, corresponding to the detected branch indication, to record relevant information of said branch indication, including which one of the plurality of distinct branches to continue for playing the content, wherein each branch indication of the played content has a corresponding created bookmark, wherein subsequent playing of the content is guided by the created bookmarks (As discussed above, once the system detects the particular angle (i.e. branch indication), Lamkin et al. teaches in col. 21, lines 21+ and col. 13, lines 38-51 teaches of **creating/storing** a multitude of information regarding the point at which the user decides to create a bookmark. The bookmark information includes among others, the ability to mark a particular "Angle, Angle (1-9)" being reproduced. Therefore, during playback, the user can use the Bookmark to jump back to the specific Angle that was being reproduced. Col. 53, lines 65-12 teaches of a "GotoBookmark" feature: "GotoBookmark returns to the same position on the disc as when the bookmark was set". Each of the angle that is reproducible represents a different and distinct branch of the content. The bookmark information therefore identifies a specific branch upon selection from a user. Therefore the limitation of "wherein each branch indication of the played content has a corresponding created bookmark" is met the plurality of bookmarks that a user creates

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throughout the video content, especially during portions where multiple angles of data exist).

**Regarding claim 2**, Lamkin et al. teaches the claimed further comprising acts of: identifying a bookmark corresponding to the branch indication passed during a forward/rewind operation of the playback device (as discussed in claim 1 above, the user can identify the points at which to create a bookmark and similarly upon reproduction **while the video is played** back during a playback operation, the user can decide to playback from a desired bookmark using the “GoToBookmark” instruction. The user can operate a forward/rewind operation (e.g. col. 81, lines 24-25 teaches of fast forward and fast reverse buttons selectable by a user) and after passing a point where a bookmark has been placed, the user can initiate the process of playing back video using a bookmark as taught by the “GotoBookmark returns to the same position on the disc as when the bookmark was set” discussion in col. 53, lines 65-12.

Therefore, the user identifies the bookmark during a forward/rewind operation); and selecting a specific branch of the content to forward/rewind the content according to the information of the bookmark as the navigation (col. 53-54 teaches of “GotoBookmark” instruction, which is the command generated when a user decides to playback the video from the desired bookmarked location, in doing so, the content is jumped to the location of the bookmark. Therefore, since the angle information is also stored in the bookmark, the specific branch (i.e. angle) is reproduced).

**Regarding claim 4**, Lamkin et al. teaches a method for playing content having a plurality of distinct branches associated with an optical disc on a playback device, each

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one of the plurality of distinct branches leading to a diverged end of the content from other ones of the plurality of distinct branches (col. 21, lines 21+ and TABLE 1 teaches of the standard DVD that has multiple “angles (1-9)” that can be stored, the multiple angles are distinct branches of the content unique from one another. It is noted that the content has a plurality of different paths across the “angles (1-9)” that can be reproduced by a playback device. It is noted that when the content is played back, when the multi “angles (1-9)” portion is reached, it is implicitly taught that at a first angle (1) sequence converges to a diverged end as compared to a second angle(2), third angle(3), etc), the method comprising the acts of:

detecting an interruption or pause during navigation of the distinct branches of the content selected for playback (col. 21, lines 21+ and TABLE 1 teaches of the standard DVD that has multiple angles (1-9) that can be stored, the multiple angles are distinct branches of the content unique from one another. The content has a plurality of different paths that can be reproduced by a playback device. The ability of the user to set a bookmark also meets the claimed “interruption”. Furthermore, this limitation is also met when the user may also “Pause” (col. 81, line 21) the video, prior to creating a bookmark at the paused location); and

creating a bookmark corresponding to an interruption or pause of the playing to record relevant information of the interruption point or pause point including neighboring for-and-aft position parameters, wherein the bookmark identifies a branch of the plurality of distinct branches of the content selected for playback and subsequent playing of the content (As discussed above, once the system detect the particular angle (i.e. branch



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indication), Lamkin et al. teaches in col. 21, lines 21+ and col. 13, lines 38-51 teaches of **creating/storing** a multitude of information regarding the point at which the user decides to create a bookmark. The bookmark information includes among others, the ability to mark a particular "Angle, Angle (1-9)" being reproduced. The bookmark information also stores "TitleNumber" and "Elapsed Time" which identifies a title and the **point in time** where the bookmark is created, therefore parameter "Elapsed Time" meets the claimed "neighboring fore-and-aft position parameters" since it indicates the location of where the Disc needs to be read to access the data identified by the bookmark. Therefore, during playback, the user can use the Bookmark to jump back to the specific Angle that was being reproduced. Col. 53, lines 65-12 teaches of a "GotoBookmark" feature: "GotoBookmark returns to the same position on the disc as when the bookmark was set". Each of the angle that is reproducible represents a different and distinct branch of the content. The bookmark information therefore identifies a specific branch upon selection from a user).

**Regarding claim 5**, Lamkin et al. teaches the claimed wherein the information stored in the bookmark includes at least one a name or an ID of the optical disc (TABLE 1 in col. 21 teaches of "TitleNumber" that is stored as part of Bookmark information).

**Claims 8-9** are rejected for the same reasons as discussed above in method claims 1-2, respectively, furthermore, Lamkin teaches in col. 5, lines 44-49 of "any device capable of playing any media disk" and col. 9, lines 28-58 teaches a "DVD Device 602" according to the embodiment/invention which meets the claimed optical disc player.

**Claim 10** is rejected for the same reasons as discussed in claims 1 and 8 above.

**Claims 11 and 16** are rejected for the same reasons as discussed in claims 1 and 8 above and furthermore, col. 54 teaches the storing of bookmarks ("SaveBookmark" operation) on the device.

**Claim 13 and 14** are rejected for the same reasons as discussed above in claims 4 and 6, respectively.

**Claim 15** is rejected for the same reasons as discussed in claims 13 and 4 above.

**Regarding claims 17 and 19**, the system of Lamkin et al. teaches that a DVD includes multiple angles that can be played back (col. 21, lines 21+, col. 13, lines 38-51, col. 82, lines 4-5 and TABLE 1 teaches of the standard DVD that has multiple "angles (1-9)"), Lamkin furthermore teaches in col. 101, lines 37-60 of "angles to be set to those currently available". It is taught in col. 101, line 46, that a particular "Angle is set" to playback. This therefore teaches a predefined branch indication since during playback, the particular "Angle" that is set is played. As discussed in claim 1 above, wherein a branch indication (one of the Angles (1-9)) is detected, that particular Angle is stored as a branch indication.

**Claims 18 and 20** are rejected for the same reasons as discussed in claim 4 above.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 3, 6-7 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamkin et al. (US 7,379,661) in view of Lewis et al. (US 7,286,747).

**Regarding claim 3**, Lamkin et al. teaches the limitations as discussed in claim 1 above, however fails to teach the claimed further comprising showing the bookmark corresponding to a branch point when meeting the branch point to provide user with a choice.

In an analogous art, Lewis teaches of a display in Fig. 4 that allows the display of the "Mark 1 through 9" according to the branch when it is set, and further upon playback from the branch point.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Lamkin et al. to display the bookmarks corresponding to the branch indications for selection/manipulation as taught by Lewis et al. into the system of Lamkin et al. because such incorporation would allow a user to view the different bookmarks at one time (Lewis, abstract and Fig. 4) and to "avoid the inconvenience of manipulating the fast forward or reverse commands to reach a precise point desired" (col. 1, lines 59-61).

**Claim 6** is rejected for the same reasons as discussed in claims 3-5 above.

**Regarding claim 7**, Lamkin et al. teaches the claimed further comprising acts of: determining the information of the bookmark if the information stored in the bookmark includes the name or ID of the optical disc which is played (col. 21, lines 5-11 and lines

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36-44 teaches of "Disk Cookie" includes "unique ID" and "ID field" (based on DISC.ID). The "Disk Cookie" stores the bookmarks and therefore, the bookmarks generated and stored in the "Disc Cookie" includes the name or ID of the optical disc. Upon reproduction, it is determined that the bookmark stored in the "Disc Cookie" includes the name or ID of the optical disc when the "GotoBookmark" instruction is instructed by the user); and selecting a specific branch to forward/rewind using the information stored in the determined bookmark for navigation of the content (col. 53-54 teaches of "GotoBookmark" instruction, which is the command generated when a user decides to playback the video from the desired bookmarked location, in doing so, the content is jumped (Fast Forward/Reverse) to the location of the bookmark. Therefore, since the angle information is also stored in the bookmark, the specific branch (i.e. angle) is reproduced).

**Claim 12** is rejected for the same reasons as discussed in claims 1, 3 and 8 above, and furthermore, Lewis et al. teaches the ability to jump between sets of bookmarks in col. 5, lines 21-25 and col. 6, lines 5-14 to reach the desired points. It would have obvious to one of ordinary skill art at the time of the invention to jump between sets of bookmarks as taught by Lewis et al. into the system of Lamkin et al. because such incorporation would allow a user to view the different bookmarks at one time (Lewis, abstract and Fig. 4) and to "avoid the inconvenience of manipulating the fast forward or reverse commands to reach a precise point desired" (col. 1, lines 59-61).

### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to GELEK TOPGYAL whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter-Anthony Pappas can be reached on 571-272-7646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2621

/Peter-Anthony Pappas/  
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